

**2009 DRAFTING REQUEST****Bill**Received: **10/09/2008**Received By: **btradewe**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**By/Representing: **Miner**This file may be shown to any legislator: **NO**Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Miner, BB0177 -

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**Topic:**

Compensation for removal of closed underground storage tanks

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	btradewe 10/20/2008	kfollett 10/22/2008	rschluet 10/22/2008	_____	sbasford 10/22/2008		State
/2	btradewe 11/12/2008	kfollett 11/12/2008	rschluet 11/12/2008	_____	lparisi 11/12/2008		

FE Sent For:

&lt;END&gt;

## 2009 DRAFTING REQUEST

### Bill

Received: 10/09/2008

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DOA:.....Miner, BB0177 -

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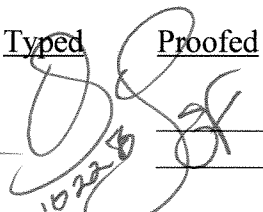

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/?	btradewe	11/5f 10/22					

FE Sent For:

&lt;END&gt;

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Closed Underground Storage Tank Removal
- Tracking Code: BB0177
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner *AM*
  - Phone: 266-1103
  - Email: andrew.miner@wisconsin.gov
- Agency acronym: COMM
- Agency number: 143
- Priority (Low, Medium, High): High

Intent: Make the removal of closed underground storage tanks, under certain circumstances, eligible for compensation using funds from the Petroleum Inspection fund. See attached sheets for suggested language, but fund this provision in the following manner:

1. Create a new annual appropriation under program 3 of the department to fund this provision, in the amount of \$250,000 annually from the petroleum inspection fund.
2. Reduce the appropriation under 20.143(3)(v) correspondingly by \$250,000 annually.

## Wisconsin Department of Commerce

### 2009/11 Biennial Budget

#### Removal of Abandoned Tanks

The Department proposes to make the removal of closed underground storage tanks, under certain circumstances, eligible for compensation using funds from the Petroleum Inspection Fund. The Department would pay all costs related to the removal of abandoned underground storage tanks, if an owner or responsible party is declared indigent by the Department of Justice. The Department would give priority to removing tanks that are in close proximity to bodies of water, or are at an elevated risk for a release of product. The Department would establish liens on properties for the cost of the removal.

#### Proposed Language:

SECTION 1. 20.143 (3) (v) of the statutes is amended to read:

20.143 (3) (v) *Petroleum storage environmental remedial action; awards.* Biennially, from the petroleum inspection fund, the amounts in the schedule to pay awards under s. 101.143, costs incurred under s. 101.1435, legal costs incurred under s. 101.143 (7m), amounts to reduce principal of outstanding revenue obligations issued pursuant to s. 101.143 (9m) and, if the department promulgates rules under s. 101.143 (2) (~~i~~ em) 1., to purchase, or provide funding to purchase, insurance described in s. 101.143 (2) (~~i~~ em) 2.

SECTION 2. 25.47 (4m) of the statutes is created to read:

25.47 (4m) The payments under s. 101.1435 (4).

SECTION 3. 101.1435 of the statutes is created to read:

#### 101.1435 Removal and closure of underground petroleum storage tanks.

(1) In this section:

(a) "Petroleum product" has the meaning given in s. 101.143 (1) (f).

(b) "Underground petroleum product storage tank system" has the meaning given in s. 101.143 (1) (i).

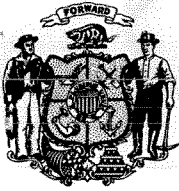
(2) The department may contract with an entity or person registered or certified under s. 101.09 (3) to, empty, clean, remove, and dispose of an underground petroleum product storage tank system and backfill the excavation if both of the following applies:

(a) The department determines that the underground petroleum product storage tank system is abandoned, and

(b) Using the method that the department uses to determine inability to pay under s. 101.143 (4) (ee), the department determines that the owner of the underground petroleum product storage tank system is unable to pay to empty, clean, remove, and dispose of the underground petroleum product storage tank system.

(3) The department shall pay the costs incurred under sub. (2) from the appropriation under s. 20.143 (3) (v). These payments may not exceed \$1,000,000 annually.

(4) If the department incurs costs under sub. (2), the department shall record a statement of lien with the register of deeds of the county in which the underground petroleum product storage tank system was located. Upon recording the statement of lien, the department has a lien on the property on which the underground petroleum product storage tank system was located in the amount of the costs incurred. The property remains subject to the lien until that amount is paid in full to the department. Payments made under this subsection shall be deposited into the petroleum inspection fund.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0522/1

RCT...

In 10/15

DOA:.....Miner, BB0177 - Compensation for removal of closed underground storage tanks

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Analysis  
Insert

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 **SECTION 1.** 20.143 (3) (vm) of the statutes is created to read:

3 20.143 (3) (vm) *Removal of underground petroleum storage tanks.* From the

4 petroleum inspection fund, the amounts in the schedule for the removal of

5 *abandoned* underground petroleum storage tanks under s. 101.1435.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

Insert 1-5

6

(END)

DOA:.....Miner, BB0035 - Allow PECFA payment for abandoned tanks  
FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

Under current law, the Department of Commerce administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the Department of Commerce to contract with a person who removes underground petroleum storage tanks to empty, remove, and dispose of an underground petroleum product storage tank <sup>stays in</sup> that has not been properly closed if the department is unable to identify the owner of the tank, the department determines that the owner of the tank is unable to pay to have the tank emptied, removed, and disposed of, or the department determines that the owner of the tank is unwilling to pay to have the tank emptied, removed, and disposed of. The bill gives the department a lien on the property from which a tank is removed in the amount of the costs that the department incurred.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*



Insert 1-5

SECTION 1. 20.143 (3) (v) of the statutes is amended to read:

20.143 (3) (v) *Petroleum storage environmental remedial action; awards.*  
Biennially, from the petroleum inspection fund, the amounts in the schedule to pay awards under s. 101.143, ~~costs incurred under s. 101.1435~~, legal costs incurred under s. 101.143 (7m), amounts to reduce principal of outstanding revenue obligations issued pursuant to s. 101.143 (9m) and, if the department promulgates rules under s. 101.143 (2) (i) ~~(em)~~ 1., to purchase, or provide funding to purchase, insurance described in s. 101.143 (2) (i) ~~(em)~~ 2.

SECTION 2. 25.47 (4m) of the statutes is created to read:

25.47 (4m) The payments under s. 101.1435 (4).

SECTION 3. 101.1435 of the statutes is created to read:

**101.1435 Removal and closure of underground petroleum storage tanks.** (1) In this section, "underground petroleum product storage tank system" has the meaning given in s. 101.143 (1) (i).

(2) The department may contract with a person registered or certified under s. 101.09 (3) to empty, clean, remove, and dispose of an underground petroleum product storage tank system that has not been properly closed and to backfill the excavation if any of the following apply.

(a) The department is unable to identify the owner of, or other person responsible for the underground petroleum product storage tank system is abandoned.

(b) Using the method that the department uses to determine inability to pay under s. 101.143 (4) (ee), the department determines that the owner of the underground petroleum product storage tank system is unable to pay to empty, clean, remove, and dispose of the underground petroleum product storage tank system.

1 (c) The department determines that the owner of the underground petroleum  
2 product storage tank system is unwilling to pay to empty, clean, remove, and dispose  
3 of the underground petroleum product storage tank system.

4 (3) The department shall pay the costs incurred under sub. (2) from the  
5 appropriation under s. 20.143 (3) (v). The department may not pay more than  
6 \$250,000 annually under this section.

7 (4) If the department incurs costs under sub. (2), the department shall record  
8 a statement of lien with the register of deeds of the county in which the underground  
9 petroleum product storage tank system was located. Upon recording the statement  
10 of lien, the department has a lien on the property on which the underground  
11 petroleum product storage tank system was located in the amount of the costs  
12 incurred. The property remains subject to the lien until that amount is paid in full  
13 to the department. The department shall deposit payments received under this  
14 subsection into the petroleum inspection fund.

15 (END)

of insert 1-5

**Tradewell, Becky**

---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Monday, November 10, 2008 2:44 PM  
**To:** Tradewell, Becky  
**Subject:** FW: Abandoned Tanks language (LRB 0522)  
**Attachments:** Abandoned Tanks-Commerce Changes to LRB 11-5-08.doc

Hi Becky,

Please see the note below regarding Commerce's suggested changes to the closed tanks draft (LRB 0522). We (SBO) would like to have the draft edited to include site assessment as an eligible activity, but **not** include Commerce's 2<sup>nd</sup> proposal, which authorizes Commerce to remove tanks that are the responsibility of local governments. Please let me know if you have questions. Thanks,  
Andrew

---

**From:** Gahan-Hunter, Tarna - COMMERCE  
**Sent:** Thursday, November 06, 2008 2:34 PM  
**To:** Miner, Andrew - DOA  
**Subject:** Abandoned Tanks language

Hi Andy,

Please find attached the language changes proposed for the budget. The changes address the addition of adding "site assessment" as an eligible activity. As you may remember, that was addressed last time around. Also, there is a change which would allow the Department to also remove abandoned tanks which are the responsibility of a city, village, town, or county.

Please let me know if you would like additional information.

Thanks,  
Tarna

Tarna Gahan-Hunter  
Budget and Policy Analyst  
Department of Commerce  
(608) 267-9382

11/10/2008

## 2009 – 2010 LEGISLATURE

DOA:.....Miner, BB0177 – Compensation for removal of closed underground storage tanks

FOR 2009-11 BUDGET — NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*  
ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, the Department of Commerce (department) administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the department to contract with a person who removes underground petroleum storage tanks to (1) empty, remove, and dispose of an abandoned underground petroleum product storage tank system; (2) perform a tank-system site assessment for that system; and (3) backfill the excavation – if the department determines that the tank system is abandoned and if the department determines either that the owner of the tank system is unable to pay to have the tank emptied, removed, and disposed of, or that the owner of the tank system is a municipality. The bill gives the department a lien on the property from which a tank system is removed in the amount of the costs that the department incurred.

**Deleted:** is unable to identify the owner of the tank,

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly,  
do enact as follows:*

**SECTION 1. 20.143 (3) (vm)** of the statutes is created to read:

**20.143 (3) (vm)** *Removal of underground petroleum storage tanks.* From the petroleum inspection fund, the amounts in the schedule for the removal of abandoned underground petroleum storage tanks under s. 101.1435.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 2. 25.47 (4m)** of the statutes is created to read:

**25.47 (4m)** The payments under s. 101.1435 (3).

**SECTION 3. 101.1435** of the statutes is created to read:

**101.1435 Removal of abandoned underground petroleum storage tanks. (1)** In this section, "underground petroleum product storage tank system" has the meaning given in s. 101.143 (1) (i).

**(2) (a)** The department may contract with and pay a person or entity registered or certified under s. 101.09 (3) to empty, clean, remove, and dispose of an underground petroleum product storage tank system; to perform a tank-system site assessment for that system; and to backfill the excavation, if, par. (b) and either par. (c) 1. or 2. apply:

Deleted: all of the following

**(b)** The department determines that the underground petroleum product storage tank system is abandoned.

Deleted: a

**(c) 1.** Using the method that the department employs to determine inability to pay under s. 101.143 (4) (ee), the department determines that the owner of the underground petroleum product storage tank system is unable to pay to empty, clean, remove and dispose of the underground petroleum product storage tank system; to perform a tank-system site assessment for that system; and to backfill the excavation.

Deleted: b

Deleted: uses

2. The owner of the underground petroleum product storage tank system is a city, village, town, or county."

(3) If the department incurs costs under sub. (2), the department shall record a statement of lien with the register of deeds of the county in which the petroleum product storage tank system was located. Upon recording the statement of lien, the department has a lien on the property on which the underground petroleum product storage tank system was located in the amount of the costs incurred. The property remains subject to the lien until that amount is paid in full to the department. The department shall deposit payments received under this subsection into the petroleum inspection fund.

(END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0522/1 2

RCT:kjf:ps

IN 11/12

VMY

DOA:.....Miner, BB0177 - Compensation for removal of closed underground storage tanks

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Don & Gen

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

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This bill authorizes the department to contract with a person who removes underground petroleum storage tanks to empty, remove, and dispose of an abandoned underground petroleum product storage tank if the department is unable to identify the owner of the tank, if the department determines that the owner of the tank is unable to pay to have the tank emptied, removed, and disposed of. The bill gives the department a lien on the property from which a tank is removed in the amount of the costs that the department incurred.

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      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
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5           **SECTION 2.** 25.47 (4m) of the statutes is created to read:

6           25.47 (4m) The payments under s. 101.1435 (3).

7           **SECTION 3.** 101.1435 of the statutes is created to read:

8           **101.1435 Removal of abandoned underground petroleum storage**  
9           **tanks. (1)** In this section, "underground petroleum product storage tank system"  
10          has the meaning given in s. 101.143 (1) (i).

11          **(2)** The department may contract with a person registered or certified under  
12          s. 101.09 (3) to empty, clean, remove, and dispose of an underground petroleum  
13          product storage tank system <sup>Insert 2-13</sup> and to backfill the excavation if all of the following  
14          apply:

15          (a) The department determines that the underground petroleum product  
16          storage tank system is abandoned.

17          (b) Using the method that the department uses to determine inability to pay  
18          under s. 101.143 (4) (ee), the department determines that the owner of the  
19          underground petroleum product storage tank system is unable to pay to empty,  
20          clean, remove, and dispose of the underground petroleum product storage tank  
21          system. <sup>Insert 2-21</sup>

22          **(3)** If the department incurs costs under sub. (2), the department shall record  
23          a statement of lien with the register of deeds of the county in which the underground



1 petroleum product storage tank system was located. Upon recording the statement  
2 of lien, the department has a lien on the property on which the underground  
3 petroleum product storage tank system was located in the amount of the costs  
4 incurred. The property remains subject to the lien until that amount is paid in full  
5 to the department. The department shall deposit payments received under this  
6 subsection into the petroleum inspection fund.

7 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0522/2ins  
RCT.....

1           **Insert 2-13**

2     no #   ; to assess the site on which the underground petroleum product storage tank  
3     system is located;

4           **Insert 2-21**

5     no #   ; to assess the site on which the underground petroleum product storage tank  
6     system is located; and to backfill the excavation



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0522/2

RCT:kjf:rs

DOA:.....Miner, BB0177 - Compensation for removal of closed underground storage tanks

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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*Analysis by the Legislative Reference Bureau*

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9           **tanks.** (1) In this section, "underground petroleum product storage tank system"  
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11          (2) The department may contract with a person registered or certified under  
12          s. 101.09 (3) to empty, clean, remove, and dispose of an underground petroleum  
13          product storage tank system; to assess the site on which the underground petroleum  
14          product storage tank system is located; and to backfill the excavation if all of the  
15          following apply:

16          (a) The department determines that the underground petroleum product  
17          storage tank system is abandoned.

18          (b) Using the method that the department uses to determine inability to pay  
19          under s. 101.143 (4) (ee), the department determines that the owner of the  
20          underground petroleum product storage tank system is unable to pay to empty,  
21          clean, remove, and dispose of the underground petroleum product storage tank  
22          system; to assess the site on which the underground petroleum product storage tank  
23          system is located; and to backfill the excavation.

(3) If the department incurs costs under sub. (2), the department shall record a statement of lien with the register of deeds of the county in which the underground petroleum product storage tank system was located. Upon recording the statement of lien, the department has a lien on the property on which the underground petroleum product storage tank system was located in the amount of the costs incurred. The property remains subject to the lien until that amount is paid in full to the department. The department shall deposit payments received under this subsection into the petroleum inspection fund.

(END)